

REMARKS

By this amendment, claims 1-36 are pending, in which claims 1, 10, 19 and 28 are currently amended. Care was exercised to avoid the introduction of new matter.

The Office Action mailed April 27, 2006, rejected claims 1-36 as obvious under 35 U.S.C. § 103 based on *Baras et al.* ("Fast Asymmetric Internet Over Wireless Satellite-Terrestrial Networks," MILCOM 97 Proceedings, Nov. 3-5, 1997, Annual Military Communications Conference) in view of *Takagi et al.* (EP 0 903 905 A) in further view of *Walrand* (Communications Networks: A First Course, Boston: McGraw-Hill, 1998). Claims 1-36 were also rejected under 35 U.S.C. § 112, first paragraph. In addition, the pending claims 1-36 were rejected under 35 U.S.C. § 101 has directed to non-statutory subject matter (under the CAN-SPAM Act of 2004). Further, claims 1, 10, 19 and 28 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite.

On June 16, 2006, a telephonic interview was conducted with SPE Jason Cardone, who advised that the language "protocol spoofing," if introduced into the claims, would overcome the § 101 rejection. Applicants have amended the claims accordingly, and thus, do not anticipate further rejections on this basis.

In response to the § 112, second paragraph rejection, Applicants have amended claims 1, 10, 19 and 28 to overcome the indefiniteness rejection. If, however, the Examiner disagrees, the Examiner is invited to telephone the undersigned who will be happy to work with the Examiner in a joint effort to derive mutually satisfactory claim language.

As regard the § 112, first paragraph rejection, the Office Action (on page 3) states "The specification did not explain how local acknowledgement of received messages over the connections is performed, and only states that it is performed in paragraph 56, page 13 of the specification." Paragraph [56] of the Specification discloses the following (Emphasis Added):

With Local Data Acknowledgement, **the TSK 280 in the network gateway 120 (for example) locally acknowledges data segments received from the IP host 110.** This allows the sending IP host 110 to send additional data immediately. More importantly, **TCP uses received acknowledgements as signals for increasing the current TCP window size.** As a result, local sending of the acknowledgements allows the sending IP host 110 to increase its TCP window at a much faster rate than supported by end to end TCP acknowledgements. The TSK 280 (the spoofer) takes on the responsibility for reliable delivery of the data which it has acknowledged.

As evident from this passage, one way to acknowledge is to use the TCP protocol. As TCP is well-known protocol, deploying this *de facto* standard communication protocol would not require "undue experimentation" as the Examiner suggests.

With respect to use of multiple compression schemes, Applicants' Specification, in paragraph [59], states the following (Emphasis Added):

The PEP 200 may optionally include a data compression kernel 290 for compressing TCP data and an encryption kernel 292 for encrypting TCP data. Data compression increases the amount of data that can be carried across the backbone connection. **Different compression algorithms can be supported by the data compression kernel 290 and more than one type of compression can be supported at the same time.** The data compression kernel 290 may optionally apply compression on a per TCP connection basis, before the TCP data of multiple TCP connections is multiplexed onto the backbone connection or on a per backbone connection basis, after the TCP data of multiple TCP connections has been multiplexed onto the backbone connection. **Which option is used is dynamically determined based on user configured rules and the specific compression algorithms being utilized.** Exemplary data compression algorithms are disclosed in U.S. Patent Nos. 5,973,630, 5,955,976, the entire contents of which are hereby incorporated by reference. The encryption kernel 292 encrypts the TCP data for secure transmission across the backbone link 130. Encryption may be performed by any conventional technique. It is also understood that the corresponding spoofer (in the example outlined above, the network gateway 140) includes appropriate kernels for decompression and decryption, both of which may be performed by any conventional technique.

The above passage is sufficient to fully enable one of ordinary skill in the art to apply the compression schemes in the manner claimed, without undue experimentation.

The Examiner is reminded that he has the initial burden to establish a reasonable basis to question the enablement provided for the claimed invention (see MPEP §2164.04). No reasonable basis has been provided here; the Examiner merely concludes that stated functions cannot be performed "without undue experimentation." MPEP §2164.01 states "a patent need not teach, and preferably omits, what is well known in the art." Here, the operation of the TCP protocol is well known, and the application of data compression, in general, is well known.

Furthermore, the Examiner has not considered the undue experimentation factors (see §2164.01(a)). The determination that "undue experimentation" would have been needed to make and use the claimed invention is not a single, simple factual determination. As best understood, the Examiner appears to rely only on the single factor of "the level of one of ordinary skill," without factoring in other

equally important considerations, such as state of the prior art, and predictability in the art. Therefore, the Examiner has not met his burden to support the enablement rejection.

As for the obviousness rejection, Applicants maintain that the arguments supplied in the previous responses are still valid. Namely, the applied art, alone or in combination fails to teach "apply different compression schemes on individual ones of the plurality of connections," as positively recited in the claims. Further, the combination of *Baras* and *Warland* is impermissible, as it is improper to combine references where the references teach away from their combination.

In view of the foregoing, Applicants respectfully urge the indication that independent claims 1, 10, 19 and 28 are allowable, along with claims 2-9, 11-18, 20-27 and 29-36 depending therefrom.

Therefore, the present application, as amended, overcomes the rejections of record and is in condition for allowance. Favorable consideration of this application is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (301) 601-7252 so that such issues may be resolved as expeditiously as possible. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,


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